

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

July 22, 2016

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No 16OD-092

Oahu

Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc.
for Aerial Fireworks Display at Duke Kahanamoku Beach on August 2, 2016, and
Consider Increasing Safety Zone Fee, Waikiki, Honolulu, Oahu, Tax Map Key:
(1) 2-3-037:021 (Portion).

BACKGROUND: At its meeting on June 14, 2013 (Item D-5), the Board approved the staff's recommendation of a safety zone fee of \$500, in addition to the firing launching platform fee of \$50.¹

At its meeting on February 14, 2014 (Item D-12), based on testimony provided from HHV, the Board approved as amended the staff's recommendation by affirming the imposition of the \$500 safety zone fee, but exempted such fee from the Friday night displays.

At its meeting on October 23, 2015 (Item D-9), staff recommended the Board reinstate the safety zone fee of \$500 for every aerial fireworks display, covering both regular Friday and non-regular firework displays subsequent to the Board date. The agenda item was deferred.

APPLICANT:

Hawaii Explosives & Pyrotechnics, Inc.

LEGAL REFERENCE:

Sections 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waikiki, Honolulu, Oahu, identified by Tax Map Key: (1) 2-3-037:portion of 021, as shown on the map attached as **Exhibit A**.

AREA:

500 square feet, more or less – Staging area, and a safety zone with a radius of

¹ For a typical size of 500 square feet.

approximately 250 feet around the firing site.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: Public Precinct

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Requested area is vacant and unencumbered.

CHARACTER OF USE:

Set up and conducting aerial fireworks display.

TERM:

Between 12:00 p.m. to 10:00 p.m. on Tuesday, August 2, 2016.

RENTAL:

\$550 (One-time payment. \$550 per event date). See Remarks Section for breakdown of costs).

COLLATERAL SECURITY DEPOSIT:

None.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 51. See **Exhibit B**.

DCCA VERIFICATION:

Place of business registration confirmed: YES X NO
Registered business name confirmed: YES X NO
Applicant in good standing confirmed: YES X NO

REMARKS:

Hawaii Explosives & Pyrotechnics, Inc. is requesting the issuance of a right-of-entry permit for the set-up and firing of fireworks display within the lagoon at Duke Kahanamoku Beach for the Special Event Fireworks Display.

The set-up and firing of the aerial fireworks display for this event will include the staging area and the firing of the aerial fireworks display from a platform within the lagoon consisting of 500 square feet from 12:00 p.m. to 10:00 p.m. on August 2, 2016 at Duke Kahanamoku Beach as shown on the attached map labeled Exhibit A.

At its meeting on June 9, 2016 (Item D-3), the Board instructed the staff to revisit the amount charged for the use of public lands by the fireworks display permit; in particular, the safety zone area. The safety zone is an area with an approximately 250-foot radius containing about 195,750 square feet (excluding the 500 square foot staging area). If the daily rent for commercial right-of-entry were applied (\$0.10 per square foot) the charge per event would amount to \$19,575; this would make the fireworks event cost prohibitive. The safety zone is an exclusion area necessary to ensure the public's safety.

As noted in the previous submittals regarding the safety zone fee for the firework shows, there were multiple arguments on both sides. As a compromise, staff recommended a charge of \$500 be imposed to cover Applicant's exclusive use of the safety zone around the firing site. Actually, it was the same position held by the staff in the October 2015 submittal. Should the Board decide that an increase in the safety zone fee is appropriate, staff seeks guidance from the Board to determine the appropriate amount to charge for the use safety zone area.

Staff is recommending that a charge of \$500 be imposed to cover the exclusive use of the safety zone as shown on Exhibit A. The total cost for this right-of-entry, which includes the staging area of \$50 will be \$550.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the past five years due to non-compliance with such terms and conditions. No comments were solicited from government or community agencies. There are no pertinent issues or concerns. Staff does not have any objection to this request.

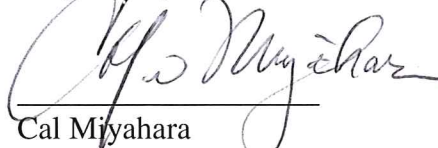
RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a right-of-entry permit to Hawaii Explosives & Pyrotechnics, Inc. on August 2, 2016 covering the subject area for aerial fireworks display purposes under the terms and conditions cited above, which are

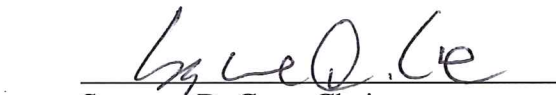
by this reference incorporated herein and further subject to the following:

- A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


Cal Miyahara
Shoreline Disposition Specialist

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson

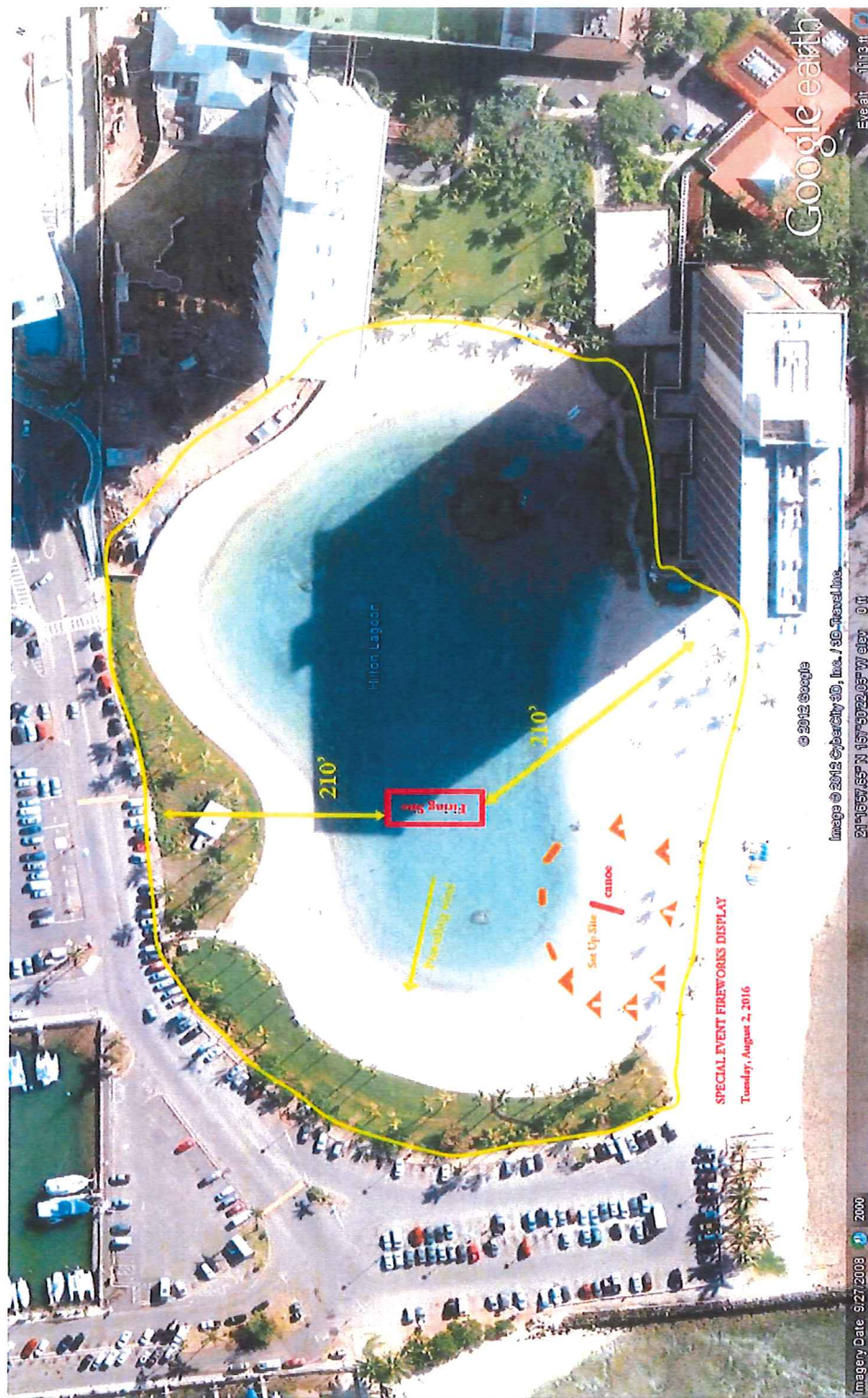


Exhibit A

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Fireworks Display at Duke Kahanamoku Beach on August 2, 2016

Project / Reference No.: PSF 16OD-092

Project Location: Waikiki, Honolulu, Oahu, TMK:(1) 2-3-037: portion of: 021.

Project Description: Aerial Fireworks Display at Duke Kahanamoku Beach

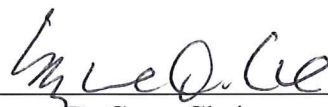
Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 51, which states the "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing".

In the past, permits were periodically issued for conducting aerial fireworks displays on the beach in this area, which have resulted in no known significant impacts to the natural and environmental resources in the area. As such staff believes that the proposed event would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Comments requested from OCCL.

Recommendation: It is recommended that the Board find that this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.


Suzanne D. Case, Chairperson

 Date 6/29/16

Exhibit B